

Applicants respectfully disagree. Periasamy discloses a communication network in which backup peers are provided for remote peers in the network. At column 9, lines 7-54 Periasamy teaches that “remote peers can select among local backup peers based on cost information obtained during the capabilities exchange...” and “the remote peer is programmed to dynamically evaluate cost data, along with any other network-management information deemed relevant by the system designer, in order to select the proper local peers.” Applicants recognize that this reference teaches the consideration of cost in selecting a backup peer. However, there is no teaching or suggestion of utilizing “a current utilization of each of the server functionalities” as required by amended Claim 8. There is no explanation of what is included in the phrase “other network management information being relevant by the system designer.” Only through improper hindsight would this phrase be read to encompass current utilization levels. Neither of the cited references speak of current utilization levels as network management information. Accordingly, Claim 8 is patentable over the cited references.

Claims 9, 14 and 15 depend from Claim 8 and are patentable for the same reason that Claim 8 is patentable.

Claim 16 also contains the same requirement of using current utilization level as well as cost when selecting server functionalities. Since neither Traversat nor Periasamy discloses use of current utilization level in the selection of functionalities, Claim 16 is patentable over the cited references.

Claims 17, 18 and 22 depend from Claim 16 and are patentable for the same reason that Claim 16 is patentable.

Claim 27 depends from Claim 8 and requires that each of the communication components searches for neighboring ones of the communication components and creates a servant list of a

neighboring communication components. The Examiner cited Paragraph 0083 of Traversat as disclosing this requirement, specifically identifying peer monitoring that is present in core layer 120. However, at paragraph 0079 Traversat teaches that layer 120 “may be shared by all peer-to-peer devices so that interoperability becomes possible.” Thus, to the extent that peer monitoring is used, it appears in all of the peers. For that reason, each peer would monitor all other peers in the network, not just the neighboring ones as required by Claim 27.

Claim 28 depends from Claim 27 and adds the requirement that one of the communication components performs a gateway search for a gateway among neighboring communication components of the server list and that one of the neighboring communication components comprises a first gateway and an additional neighboring communication components comprises a second gateway. The Examiner has cited paragraph 0028 of Traversat as disclosing communication components comprising a first gateway. Applicants respectfully disagree. Paragraph 0028 discloses rendezvous nodes performing a message forwarding function. Message forwarding is not acting as a gateway, as explained in paragraph 0004 of the present application. A gateway is a link to a circuit switching communication network. Neither Traversat nor Periasamy discloses components in a communication system that act as gateways. Traversat is concerned with peer-to-peer communications. Periasamy is focused on providing backups for peers. None of the peers discussed by either Traversat or Periasamy are gateways.

Claim 29 depends from Claim 28 and requires that one of the communication components chooses one of the gateways for use based on a respective number of available channels on each gateway, and the respective propagation time for the first and second hit responses. The Examiner has cited paragraph 0028 of Traversat as teaching this feature. Applicants respectfully disagree. There is no teaching or suggestion in paragraph 0028 or

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elsewhere in Traversat of a gateway. Furthermore, there is no teaching of communication components choosing other communication components based upon available channels or propagation time.

Claim 30 is similar to Claim 27 but depends from Claim 16. Claim 30 is patentable for the same reasons as Claims 16 and 27.

Claim 31 depends from Claim 30 and is similar to Claim 28. Claim 32 depends from Claim 31 and is similar to Claim 29. Claims 31 and 32 are patentable for the same reasons that Claims 28 and 29 are patentable.

For the foregoing reasons, Applicants submit that the claims are patentable over cited references. Reconsideration and allowance are respectfully requested.

Respectfully submitted,

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